

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

ANDREW OSTROWSKI,

Plaintiff,

v.

**OFFICER JOHN DOE and
FRANK D'ANDREA,**

Defendants.

CIVIL ACTION NO. 3:14-CV-429
(JUDGE CAPUTO)
(MAGISTRATE JUDGE SAPORITO)

ORDER

NOW, this 7th day of March, 2016, in accordance with the accompanying memorandum, **IT IS HEREBY ORDERED** that:

- (1) Magistrate Judge Saporito's Report and Recommendation (Doc. 16) is **ADOPTED**;
- (2) Plaintiff Andrew Ostrowski's Objections (Docs. 17-18) are **OVERRULED**;
- (3) Defendant Frank D'Andrea's Motion to Dismiss for Failure to State a Claim (Doc. 12) is **GRANTED**;
 - (a) Plaintiff's claims under 42 U.S.C. § 1983 against Defendant D'Andrea are **DISMISSED**;
 - (b) Plaintiff's Pennsylvania state law defamation claim against Defendant D'Andrea is **DISMISSED without PREJUDICE**;
 - (c) Plaintiff's claims against Officer John Doe are **DISMISSED without PREJUDICE**;
- (4) Plaintiff is permitted to file an amended complaint within thirty (30) days in accordance with the accompanying memorandum and Rule 8 of the Federal Rules of Civil Procedure;
- (5) The Clerk of Court is directed to close this case if a second amended complaint is not timely filed; and
- (6) The matter is remanded to Magistrate Judge Saporito for further proceedings, if any.

/s/ A. Richard Caputo

A. Richard Caputo
United States District Judge